International Banking Federation

5th Floor, 1 Angel Court
London EC2R 7HJ
United Kingdom
+44 7725 350 259
www.ibfed.org

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Public Consultation on Global Anti-Base Erosion (GloBE) Rules
International Co-operation and Tax Administration Division, OECD/CTPA
taxpublicconsultation@oecd.org

Dear Sir/Madam

Thank you for the opportunity to provide our feedback in response to the public consultations on 'Pillar Two - GloBE information Return' (GIR) and 'Pillar Two – Tax Certainty for the GloBE Rules'. We additionally appreciate the publication of the guidance on Safe Harbours and Penalty Relief. We have sought to provide high-level feedback on all three documents in this letter.

General comments

We appreciate the confirmation of safe-harbour arrangements for the years up to 30 June 2028 and believe that this will help to reduce the compliance burden for affected multi-national company groups over that period. Once countries have had a chance to review the operation and outcomes of the transitional safe harbour, we encourage the Secretariat to consider whether the safe harbour within the Inclusive Framework (perhaps with some adjustments) could be extended or made permanent without undermining the objectives of Pillar 2. We also note that the effectiveness of the transitional safe harbour will be undermined if it is not required to be incorporated into a jurisdiction's Qualified Domestic Minimum Top-up Tax (QDMTT). We are interested in continuing to discuss these and other simplification measures, including a QDMTT safe harbour, with the Secretariat. The availability of these simplification measures will have a significant impact on the compliance burden associated with GloBE rules and the GIR.

Annex A of the Pillar Two – GlobE Information Return public consultation document ("the consultation document") attempts to set out all the data points a Multi-National Entity (MNE) Group might need to calculate its GloBE liability. The sheer number of data points is indicative of the complexity of the GloBE rules and the compliance burden associated with them. The number of data points increases many folds if entity-by-entity calculations are required based on entity level financial statements reported under the parent's financial accounting standard. Many MNE Groups will not have information systems able to provide this level of information, meaning manual processes will have to be put in place or significant investments in information systems will be required for the purpose of preparing the return. We would therefore recommend that computations are requested only at a jurisdictional level, given any top up tax liability is also calculated at the jurisdictional level. This would assist to limit complexity and duplicative reporting of certain data.

We are of the view that the OECD should mandate that member states provide for electronic filing of the GIR, and that the OECD should provide a central application/solution to avoid each state developing their own solution.
As the GIR lodgement and exchange processes are based on country-by-country reporting (CbCR) reporting requirements it is important for those two reporting regimes to be aligned. In this regard we would like to understand whether there are any expected changes to CbCR requirements and timing of any such changes.
We would also appreciate guidance on whether a reduced form of reporting is possible where the safe harbour conditions are met, which would be consistent with reducing the compliance burden.

Exchange of Information
Paragraph 15 of the GIR consultation document specifies that the GIR may be subject to a single point of filing, followed by the exchange of GloBE information between tax administrations. We are strongly of the view that a single point of filing is necessary, and we understand that the GIR exchange will be done in a comparable manner to the CbCR. There have been various practical problems with the CbCR which should be avoided in relation to the GIR. In particular, local filings have been necessary because some countries are unable to exchange the CbCR with other partner states. Local notifications that company X belongs to the XY Group should also be avoided as being unnecessary.

Tax Certainty for the GloBE rules
Paragraph 3.2.3 of the consultation document provides for reliance on existing tax treaties for resolving GloBE disputes. However, we believe that this is not sufficient for the following reasons.

- In many jurisdictions, permanent establishments have no treaty access because branches are not considered resident for the purpose of the applicable tax treaty. This may cause problems for multinational companies which use extensive branch networks, such as banks.
- There would also need to be consistency between treaties and potentially a more comprehensive treaty network. Given that this harmonisation would likely take some time to achieve interim solutions would be necessary.

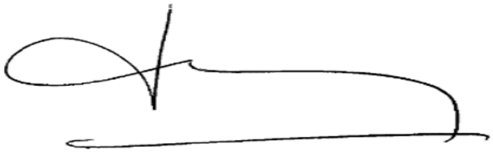
Other matters
We would be grateful to receive further detail on the basis for calculating the simplified ETR for the permanent safe harbour. We would recommend that movements in DTA's, including movements in DTAs that have not been recognised in the accounts, in respect of losses brought forward may be included in the Simplified Covered Taxes figures used for the simplified ETR test. We consider that amending the ETR test in this way would be consistent with the policy objectives underlying the safe harbour test and would eliminate an inconsistent application of the safe harbour between MNEs that have fully recognised DTAs for brought forward losses and those that have not. We would be happy to explore further with you the complexities of deferred tax accounting practices in this area and the reasons why we believe the safe harbour test should be amended to ensure equal treatment in these circumstances.
We would also like to confirm that DTAs in respect of losses brought forward may be recognised in the CbCR figures used for the ETR test.
It would be helpful for the OECD to provide a central data base that specifies which countries apply a QDMTT, an IIR and/or a UTPR. This would reduce the compliance burden imposed on companies. In addition, it would be helpful to know when further detail on the QDMTT will be available.
We also note that in relation to the application of safe harbours in the EU context, EU Directive 2022/2523 states that a safe harbour may be invoked if the conditions of a "qualifying international agreement" are fulfilled. We would be happy to discuss with you further what this means in terms of meeting these requirements.

Conclusion

Once again, we would like to thank you for giving consideration to, and acceptance of safe harbours. We also acknowledge the detailed information that has been provided as guidance and for comment so far. However, there are several issues that we believe would benefit from further discussion, as outlined above. In addition, greater clarity over the complete timeline/roadmap for further release would be appreciated for the purpose of obtaining certainty of the application of the requirements and providing companies with sufficient time to comply.

We are therefore available for further discussion with you to help resolve and refine these issues.

Kind regards,



Hedwige Nuyens
Managing Director IBFed

Michael Barbour
Chair of the IBFed Tax WG